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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,548	04/16/2004	James N. Maiocco	044897.002CONT	2097

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EXAMINER

JEAN, FRANTZ B

ART UNIT	PAPER NUMBER
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2154

MAIL DATE	DELIVERY MODE
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03/10/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/826,548

Applicant(s)

MAIOCCO ET AL.

Examiner

Frantz B. Jean

Art Unit

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19, 23-36 and 41-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 45-51 is/are allowed.
- 6) ☒ Claim(s) 1-19, 23-36 and 41-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/24/08 has been entered.

Response to Arguments

Applicant's arguments with respect to claims 1-19, 23-36 and 41-51 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections. 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-19, 23-36 and 41-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moran et al. hereinafter Moran US patent Number 6,801,940 in view of Kekic et al. hereinafter Kekic US patent number 6,664,978.

As per claims 1 and 23, Moran teaches a system for monitoring performance of a global network comprising:

A poller for initiating requests and receiving SNMP-attribute data from a monitored device across a public wide area network (col. 5 lines 53-59; col. 11 lines 28-43); a database (col. 15 lines 1-5; lines 60 et seq) for storing received SNMP-attribute data; and a graphical user interface (col. 5 lines 2-7; lines 60 et seq) to the received SNMP-attribute data stored in the database. Moran does not explicitly teach initiating request at repeated regular time intervals. Kekic is directed to a client-server network management system that comprises requests at repeated time intervals (see fig 19; col. 38 line 27 to col. 39 line 26). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Kekic features to Moran to elicit information from agent. One skill artisan at the time of the invention would be motivated to do so to minimize impact on managed elements and network bandwidth (see col. 4 lines 19-31).

Furthermore, Moran fails to teach a poller that further accumulates utilization information from SNMP attribute data in a read-only manner. Kekic discloses collecting utilization information (see col 23 line 50 to col. 24 line 34). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Kekic collection of utilization information to Moran's monitoring system to facilitate the network

Art Unit: 2154

monitoring performance. One skill artisan would be motivated to do so to monitor the network performance and reliability.

As per claims 2 and 24, Moran teaches a notifier analyzing time-based performance criteria for providing alerts to a user when received SNMP-attribute data meets one or more established threshold criteria for the monitored device (col. 11 lines 37-43; col. 15 lines 8-12; col. 5 lines 53-59).

As per claims 3-4 and 25-26, Moran teaches a VPN (col. 49 line 49).

As per claims 5-6 and 27-28, Moran teaches wireless network (see fig 1).

As per claims 7-8 and 29-30, Moran teaches VoIP (col. 42 lines 22-26).

As per claims 9-10 and 31-32, Moran teaches performance metrics for VPN tunnel (see abstract; col. 35 lines 25 et seq; col 64 lines 37 et seq).

As per claims 11 and 33, Moran teaches a graphical user interface provided by an application service provider (col. 5 lines 2-7; lines 60 et seq).

As per claims 12, 14-16, 34 and 36, Moran teaches data access across a firewall insulating the monitored device from the network (col. 48 line 65 to col. 49 line 18).

As per claims 13 and 35, Moran teaches an Internet browser (standard web browser 406).

As per claims 17-19 and 41-44, Moran teaches a graph generator for displaying one or more graphs of one or more performance metrics based on the received SNMP-attribute data (see fig 24, graph server and fig 25).

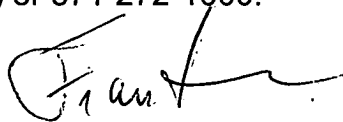
Allowable Subject Matter

Claims 45-51 are allowed over the prior art of record.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantz B. Jean whose telephone number is 571-272-3937. The examiner can normally be reached on 8:30-6:00 M-f.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Flynn can be reached on 571-272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



FRANTZ B. JEAN
PRIMARY EXAMINER

Frantz Jean